

FREQUENTLY ASKED QUESTIONS SERVICE OBLIGATION AND REPAYMENT REQUIREMENTS

FOR GRANTS AWARDED IN FISCAL YEARS 1997 THROUGH 2004

Regarding the Final Regulations Implementing Section 673(h) of the Amendments to the Individuals with Disabilities Education Act (IDEA) of 1997, i.e., Service Obligation and Repayment Requirements

Three Sets of Service Obligation Rules Apply to Grants Awarded in Different Years:

- 1) For grants awarded in fiscal year (FY) 2004, or earlier, the version of the regulations published on December 9, 1999 implementing section 673(h) of the Individuals with Disabilities Education Act (IDEA), (see 34 CFR part 304) that was in effect at that time apply, including the requirement that grantees track the service obligations of scholarship recipients;**
- 2) For grants awarded in FY 2005, the "Additional Requirements" section of the Personnel Preparation To Improve Services and Results for Children With Disabilities--Combined Priority for Personnel Preparation and Preparation of Leadership Personnel notice (the "notice"), published in the Federal Register on March 25, 2005 apply, including the requirement that the Secretary track the service obligations of scholarship recipients;
- 3) For grants awarded in FY 2006 and any year thereafter, the regulations published on June 5, 2006 implementing section 662(h) of IDEA (see 34 CFR part 304) apply, including the requirement that the Secretary track the service obligations of scholarship recipients.

For any particular grant, the rules in effect in the year that the grant (not a specific scholarship) was initially awarded apply to all future years of the grant.

Introduction to FAQs Based on the 1999 Service Obligation Regulations

Because the statutory service obligation requirement was added to the 1997 Amendments to the Individuals with Disabilities Act (IDEA 1997), any grantee to whom the Department made an initial grant award from October 1, 1997, the effective date of the 1997 amendments, through January 9, 2000 must ensure that scholars who receive a scholarship comply with the work or repay requirement if such a requirement was a part of the Federal request for applications. Any assistance received after January 10, 2000, the effective date of the regulations, is subject to the specific requirements set forth in the regulations. Scholars receiving assistance under a grant initially funded prior to October 1, 1997 are not subject to the work or repay requirements of the 1997 amendments, even if the scholar continues to receive assistance from that grant, because the service obligation applies only to those grantees who applied and were funded after the 1997 amendments.

On December 9, 1999, the Secretary published in the Federal Register the Final Regulations implementing Section 673(h) of IDEA 1997. These regulations are codified at 34 CFR Part 304. As a condition of receiving funding under the Personnel Preparation to Improve Services and Results for Children with Disabilities program, scholars and institutions are required to comply with the regulations, which outline the grantees' and scholars' and obligees' responsibilities in regard to the work or repayment requirements of IDEA scholarship assistance. The following questions and answers have been developed to answer often asked questions, but they do not cover all aspects of the regulations and should not be used exclusively. The regulations can be found on the Department of Education's Web site at <http://www.ed.gov/news/fedregister/finrule/1999-4.html> or on the National Center on Service Obligation (NCSO) Web site at <http://www.serviceobligations.ed.gov>.

General Information

1. Who is required to perform the service obligation?

Individuals who receive scholarship assistance from projects funded under IDEA are required to complete a service obligation or repay all or part of the costs of such assistance. For each academic year scholars receive assistance they must maintain full-time employment for the equivalent of two years (see question 8), or repay the Federal government for the portion of assistance they received that has not been repaid through service (see question 18). Scholars whose assistance is provided through grants funded under IDEA are required to provide special education, related services, or early intervention services to children with disabilities, or if they received assistance to support leadership preparation activities, scholars must perform work related to their preparation.

2. How is the term “academic year” defined for purposes of the service obligation work or repay requirement?

Because there is a great deal of variation in how grantees and institutions of higher education (IHEs) utilize the term “academic year,” the definition of this term provided in section 304(3)(b) of the regulations is only intended to establish general guidelines. As defined in the regulations, “academic year” means a full-time course of study taken for: (1) a period totaling at least 9 months; or (2) the equivalent of at least 2 semesters, 2 trimesters, or 3 quarters. It is up to each individual grantee to determine what constitutes a “full-time course of study” and what constitutes an “academic year” for their particular institution. The determination that individual grantees make must fall within the above-mentioned guidelines is established in section 34 CFR 304.3(b) of the regulations. For part-time scholars, the definition of “academic year” should be based on the accumulation of part-time courses of study that are equivalent to the grantee's academic year.

3. Does the work or repayment requirement apply to all categories of financial aid or scholarship assistance, or just certain kinds of financial aid or scholarship assistance?

The requirement applies to all IDEA financial assistance to a scholar and includes payments for tuition, stipends, books, fees, and travel in conjunction with training assignments. The

scholar's service obligation is based on the period for which the individual received financial assistance rather than on the amount of the assistance.

4. If a student receives financial assistance under the grant for work performed as a graduate assistant, does the student have a service obligation requirement?

No. Any student whose financial assistance under the grant is based on the condition that the student work for the grantee is not subject to the service obligation requirement because such assistance is not "scholarship" assistance. Grantees who propose to use grant funds to pay graduate assistants to assist in facilitating or administering projects must classify those funds as personnel or other non-scholarship costs. Any remuneration paid to graduate assistants cannot be used to meet the applicable percentage of grant funds that must be used to pay for scholarships.

5. When a scholar receives partial funding, what are the work or repayment requirements?

The service obligation for individual scholars is calculated based solely on the number of academic years of training for which the scholar received scholarship assistance. The amount of financial assistance disbursed, whether such financial assistance is used to cover part or all of a student's costs incurred during an academic year, has no affect on an individual scholar's employment commitments.

Service Obligation

6. How do scholars fulfill their service obligation?

An individual providing direct services to children with disabilities must be employed in a position in which at least a majority of the infants, toddlers, and children to whom the individual provides services are receiving special education, related services, or early intervention services from the individual; OR the individual must spend at least a majority of his or her time providing special education, related services, or early intervention services to infants, toddlers, and children with disabilities.

Scholars who receive scholarships from leadership preparation projects are required to work on a full-time or full-time equivalent basis for a period of two years for each year of assistance, in a position in which a majority of the scholar's time is expended on work related to his or her training (See Section 304.23(3)).

7. How does the Department define research for purposes of the service obligation?

Any definition of research that is current and acceptable in the field may be used, such as the definitions of "applied research" and "basic research" in Section 102 (2) and (3) of the Education Sciences Reform Act (ESRA). In this Act, the term "applied research" means research:

- (a) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and
- (b) that is specifically directed to the advancement of practice in the field of education.

Likewise, the term “basic research” means research:

- (a) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and
- (b) for the advancement of knowledge in the field of education.

8. How is the length of the service obligation calculated?

The length of the service obligation is the full-time equivalent of 2 years for each academic year of scholarship assistance provided. (See question 2 for definition of academic year). If a scholar receives scholarship assistance for a portion of an academic year, then his or her service obligation will be calculated proportionally. For example, if a scholar receives assistance for three semesters at a grantee institution that considers an academic year to be two semesters, then the scholar’s service obligation is three years. The service obligation is based upon the “accumulated academic years” of training for which the scholar received assistance, not the amount of time the scholar spends in the program.

9. What is the minimum amount of academic training a scholar must complete before he or she may start to fulfill the service obligation through employment?

Except as follows, individual scholars must complete at least one-full academic year of training (or the full-time equivalent of one-full academic year if the scholar is part-time) before he or she may begin to fulfill the service obligation through employment. Therefore, any individual who fails to complete at least one full-time academic year of training will not be eligible to fulfill his or her service obligation requirement through employment, but will instead have to repay the entire amount of scholarship assistance received. (However, it is worth noting that scholars who complete at least one full academic year of training (or the full-time equivalency of one year if the scholar is part-time) but who also fail to complete a program or obtain full certification in their State will not necessarily be considered qualified to fill available special education, related service, or early intervention jobs that meet the requirements in section 304.30(e).)

The primary exception to this rule is when the full-time course of study in which the scholar is enrolled is designed to last less than one full academic year. For example, courses leading to various certifications for special education teachers who are already employed on a full-time or part-time basis, and are currently working in the classroom, are typically designed to last less than one full academic year. In such cases, if the scholar completes the required program, the scholar is eligible to fulfill his or her service obligation requirement. The length of the scholar’s service obligation will be calculated based on the portion of the academic year to which the full-time course of study was equivalent. For calculation purposes, see Question 8.

10. If a scholar is dismissed or drops out of a program for an academic or non-academic reason, will he or she be required to fulfill the employment or repayment requirement?

Yes. The regulations apply to scholars who are dismissed or drop out of a program in the same manner that they apply to other scholarship recipients (See question 9).

11. When does the service obligation begin?

Unless there is a basis for a deferral or an exception (See questions 20-22), the service obligation begins immediately upon exiting the program.

12. How long do scholars have to complete their service obligations?

The period of time within which any individual who owes a service obligation (service obligee) must fulfill his or her obligation is calculated by determining the sum of the number of years of service owed plus a grace period of three additional years.

13. What is full-time employment?

Full-time employment means a full-time position, as defined by the individual's employer or by the agencies served by the individual.

14. Must service obligees work on a full-time basis to satisfy their obligations?

No. Service obligees may fulfill the obligation through full- or part-time employment. If an obligee works part-time, he or she must still work the full-time equivalent of two years for each academic year for which assistance was received. Further, obligees who work on a part-time basis must also fulfill the obligation within the required period, which is calculated by determining the sum of the number of years of service owed plus three additional years.

15. Can a scholar begin working to satisfy the service obligation while still receiving the academic training for which the scholarship was awarded?

Employment that meets the regulatory requirements and is performed by a scholar subsequent to the completion of one full-time academic year of training (or full-time equivalent if the student is part-time) may be used to meet, in part, the scholar's service obligation.

16. Can the service obligation be satisfied by working with children with disabilities in a country outside of the United States, its territories and the Freely Associated States ?

No, unless the employment in question takes place in a Department of Defense school, any service obligation to be fulfilled by working directly with children with disabilities must occur within a school that is covered by IDEA. IDEA only applies to State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) that receive funds under IDEA. IDEA does not have extra-territorial effect because schools outside the US, its territories, and

the Freely Associated States (i.e., American Samoa, Guam, Puerto Rico, the US Virgin Islands, and the Commonwealth of the Northern Marianas, Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau) do not qualify as SEAs or LEAs and may not receive IDEA funds.

17. Why, and under what authority, is the Department of Education requesting student social security numbers from grantees, and how will this information be used?

Under section 304.23 (d) the Secretary has general authority to require grantees to forward “any other information that is necessary to carry out the Secretary’s functions under section 662 of the Act and this part.” The Department is requesting student social security numbers under this authority in order to meet its responsibilities under section 662(h)(3)(A) of IDEA of ensuring that scholars comply with their service obligations.

Repayment Requirements

18. What are the consequences of a service obligee’s failure to satisfy the service obligation?

According to the terms and conditions of the scholar's written agreement with the grantee, he or she must repay the amount of scholarship assistance not satisfied through employment. Also, the service obligee will be charged interest on the unpaid balance of the scholarship owed; accruing from the date he or she is determined to have entered repayment status. The Secretary may also impose reasonable collection costs in accordance with 31 U.S.C. 3717.

19. When does a service obligee enter repayment status?

Any service obligee who fails to meet the service obligation through eligible employment enters repayment status on the first day of the first calendar month after the earliest of the following dates:

- (1) the date the obligee informs the grantee or the Secretary that he or she does not plan to fulfill the service obligation under the agreement;
- (2) the date the obligee's failure to begin or maintain employment makes it impossible for that individual to complete the service obligation within the number of years required by section 304.23(b); or
- (3) the date on which the obligee discontinues enrollment in the course of study under section 304.30(a) prior to finishing at least one year.

20. On what basis may the training institution grant a deferral or an exception?

The training institution may grant a deferral or an exception to the work or repayment requirements upon request, if a scholar or a service obligee can provide sufficient evidence to substantiate eligibility for a deferral or exception. The circumstances under which deferrals and exceptions may be granted are provided in Questions 21 and 22.

21. Under what circumstances may repayment of a scholarship be deferred?

Repayment of a scholarship may be deferred under any circumstance in which a scholar or a service obligee:

- (1) is engaging in a full-time course of study at an institution of higher education;
- (2) is serving, not in excess of three years, on active duty as a member of the armed services of the United States;
- (3) is serving as a volunteer under the Peace Corps Act;
- (4) is serving as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973;
- (5) has a disability which prevents the individual from working, for a period not to exceed three years; or
- (6) is unable to secure employment as required by the agreement by reason of the care provided to a disabled family member for a period not to exceed 12 months.

22. Under what circumstances may a service obligee receive an exception to the repayment requirement?

A scholar or an obligee may receive an exception to the repayment requirements, in whole or in part, if he or she:

- (1) is unable to continue the course of study or perform the service obligation because of a permanent disability; or
- (2) has died.

Special Circumstances

23. How are early intervention personnel affected by the service obligation requirements?

Scholars who receive training in the area of early intervention have the same obligation as other scholars who receive training assistance under an IDEA training grant. However, if the State has elected to serve at-risk infants and toddlers and their families under Part C of IDEA, the early intervention services performed may include services to infants and toddlers who are at risk for experiencing developmental delays and their families, as well as infants and toddlers with identified disabilities and their families.

24. If a general education teacher or paraprofessional receives funding from a training grant are they affected by the service obligation requirement?

Yes. General education teachers and paraprofessionals who receive funding from a training grant, like all other IDEA-funded scholars, must subsequently work in the special education, related service, or early intervention field consistent with the requirements of the regulations, or repay the scholarship. Neither the statute nor the regulations provide an exception to the service obligation for general education teachers, principals, and paraprofessionals.

25. Will any remaining service obligation be waived for obligees who pursue a doctoral level degree after completing a Master's level program for which they received a scholarship?

No. Obligees may fulfill the service obligation accrued during their Master's level program in any of the ways described in Question 6.

26. Can a scholar who was supported at the Master's level by an IDEA-funded grant teach in an undergraduate or Master's program while completing a doctorate?

No. For obligees funded from grants awarded between 1997 and 2004, the service obligation must be fulfilled through direct service as described in Question 1. The exception is if the scholarship was made by a Leadership grant.

Operational

27. What is a grantee's obligation with respect to scholar repayment agreements?

An institution receiving a training grant under IDEA must ensure that any scholar receiving scholarship assistance from the grant signs and dates a "repayment" agreement prior to the initial disbursement of any scholarship funds on his or her behalf, including the payment or crediting of tuition. The institution must fully disclose to the IDEA scholar the terms and conditions of the repayment requirement in the application for an IDEA scholarship. The written agreement must contain the terms and conditions required by the regulations at 34 CFR 304.23.

28. Does research performed overseas qualify as eligible employment and will it fulfill my service obligation?

It depends. Research performed overseas may qualify as eligible employment for the fulfillment of the service obligation. Such research must meet any current and acceptable definition of research (see FAQ question 7 above) as well as the regulatory standard that the individual spends, "at least 51 percent of his or her time performing work related to the training for which a scholarship was received..." (Section 304.30(e)(3) of the 2006 Regulations, Section F(e)(5) of the 2005 Requirements).

29. What is the "exit certification" that the grantee must receive from the scholar when a scholar completes his or her program?

The grantee must establish policies and procedures for receiving written certification from scholars at the time of exit from the program. The certification must identify—

- (1) the number of years the obligee needs to work to satisfy the work requirements of the regulations;
- (2) the total amount of scholarship assistance received subject to the work-or-repay Requirements;
- (3) the time period during which the obligee must satisfy the work requirements;

(4) all other obligations of the obligee.

30. Which entity is responsible for receiving and maintaining information and tracking the service obligation of the scholars?

Institutes of Higher Education (IHEs) are responsible for tracking the service obligation of scholars/obligees supported by grants awarded in FY 2004 and earlier, and ED is responsible for tracking the service obligation of scholars/obligees supported by grants awarded in FY 2005 and any year thereafter.

31. To whom must the service obligee report his or her whereabouts, employment settings, or employment status?

The grantee that administered the IDEA training grant is responsible for maintaining the location of scholars/obligees supported under the training grant, and their employment, until the work or repayment requirements are met. Service obligees, therefore, are expected to provide any information requested by the institution that is needed to determine whether the obligee has fulfilled the service obligation requirements or needs to repay the scholarship. Moreover, obligees are required to notify their institutions of changes in address, employment settings or employment status throughout the period of their service obligation.

32. How will the service obligations of obligees be monitored?

Grantees at training institutions are not required by regulations to establish a specific tracking system. However, grantees must establish policies and procedures, including some sort of system to determine the compliance of their scholars with their service obligations outlined in the required agreement between each scholar and the grantee. Grantees are free to utilize existing practices at their institution, modify these procedures, or develop new procedures specific to graduates of IDEA training programs. In order to facilitate the grantee's responsibility to ensure that the obligee is fulfilling his or her work or repay requirements, the regulations require the obligee to provide information as requested by the grantee. The regulations require the obligee to notify the grantee institution of changes in address and employment status throughout the duration of the service obligation.

33. Who is responsible for notifying the Secretary when a scholar or obligee is in repayment status, and how is that responsibility fulfilled?

As soon as the grantee is aware that the obligee will not repay the assistance through employment, the grantee must notify the Secretary that the obligee is in repayment status by forwarding the obligee's name, address, social security number, and repayment amount due to the following address:

OSEP Service Obligation Contact
Grants Awarded FY 2004 and Earlier
U. S. Department of Education
Office of Special Education Programs

400 Maryland Avenue
Washington, D.C. 20202-2600.

34. Who collects the funds repaid by a service obligee if he or she does not fulfill the service obligation through eligible employment?

If a service obligee does not comply with the service obligation requirements by fulfilling the terms of his or her obligation, ED is responsible for collecting any funds to be repaid (scholarship, interest, and collection costs) according to a schedule established by the Secretary. Interest is charged in accordance with the Debt Collection Act of 1982, as amended 31 U.S.C. 3717.